IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Crl.MC.No. 3257 of 2007()

(CRIME NO. 52/2005 of KUTHUPARAMBA POLICE STATION)

PETITIONER: ACCUSED 2 & 3:

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1. K. SAMEER, S/O. KHADER,
   AGED 23 YEARS, SAJITHA MANZIL, SIVAPURAM,
   KANNUR DISTRICT.

2. P.M. JABBAR, S/O. IBRAHIM,
   KANNOTH, SIVAPURAM, KANNUR DISTRICT.

BY ADV. SRI.CIBI THOMAS

RESPONDENTS: COMPLAINANT/STATE:

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1. SUB INSPECTOR OF POLICE,
   KUTHUPARAMBA POLICE STATION.

2. STATE REP. BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. M.S. BREEZE, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 3257 Of 2007

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Dated this the 24th day of October, 2007

ORDER

Petitioners are accused 2 and 3. They face indictment in a prosecution for the offences punishable, inter alia, under Sections 341, 395 read with 34 I.P.C. Investigation is complete. Final report has already been filed. Cognizance has been taken. The petitioners have not entered appearance so far. Consequent to non-appearance of the petitioners, the learned Magistrate has issued coercive processes against the petitioners.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The absence of the petitioners earlier was not wilflul. The petitioners are willing to surrender before the learned Magistrate and seek regular bail, but they apprehend that their applications for bail may not be considered by the learned Magistrate, in accordance with law and expeditiously. They therefore pray that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release them on bail when they appear and apply for bail.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such applications on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE